



Lamoine Planning Board

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Detailed Minutes of Public Hearing March 4, 2008 (Shoreland Zoning Amendments)

Planning Board Chair Stuart Branch opened the public hearing at approximately 6:33 PM

Present were: Board Members Present: Stuart Branch, Gordon Donaldson, Michael Garrett, Michael Jordan Members of the Public in Attendance: David Grasso, Stuart Marckoon (cable TV operator), Chris Tadema-Wielandt, Lynda Tadema-Wielandt and Code Enforcement Officer Dennis Ford.

The hearing was televised on Lamoine Cable TV Channel 7

Board members introduced themselves.

Michael Garrett reviewed the changes in the ordinance. He said at the March 2007 town meeting the changes to the Shoreland Zoning Ordinance was approved by voters. He said the ordinance changes were submitted to the Department of Environmental Protection for state approval and the Commissioner came back with a list of changes required to meet the state mandated minimum ordinance. He said those are now incorporated into the Shoreland Zoning Ordinance which will again be voted upon in April.

Mr. Garrett reviewed the changes imposed by the State DEP. He said the first was the effective date, which he called pretty technical and not very serious. He said the 2nd had to do with timber harvesting. He said when the ordinance was put together, reference was made to the state timber harvesting regulations. He said the state rejected that particular approach, and insisted that those be put back in. He said when the state revisions of timber harvesting are finished, they will effect another change in the ordinance.

Mr. Garrett said the next change had to do with a replacement structure within the Shoreland Zone. He said the changes are available at the town office and on-line. He read from section 12-C-3 as follows:

If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12.C.2 above.

Mr. Garrett said a further change in the land use table, line 16, the former ordinance allowed mineral exploration in one or more of the zones. He said the state has said there is to be no mineral exploration in any of the zones in the Town of Lamoine. Mr. Branch said that would be in any town.

Mr. Garrett said the original date for incorporating the changes is July 1, 2008. He said that's why the Planning Board did what it did last year, and subsequently towns have to incorporate the changes by July 1, 2009.

Chris Tadema-Wielandt asked if he understood that the state has prohibited mineral exploration in the Shoreland zone statewide. Mr. Garrett said yes. He said that only applies to the Shoreland Zone.

Mr. Garrett read from Section 15J as follows:

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

Mr. Garrett said there is a change in the language in Section 16 I-1 which has to do with appeals of the Planning Board or Code Enforcement Officer. He read as follows:

- a. To hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.***

He said the remaining items have to do with a number of terms that the state insists must be incorporated into all town Shoreland Zoning Ordinances. He read the following definitions:

Basal Area – the area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

Basement – any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of this volume below the existing ground level.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Forested wetland – a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Functionally water-dependent uses –adding the last sentence: *Recreational boat storage buildings are not considered functionally water-dependent.*

Increase in nonconformity of a structure – any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Mr. Garrett said to have fun with that one. He said another new definition is as follows:

Subsurface sewage disposal system – *any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to; septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste waster disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.*

Mr. Garrett said that pretty much covers the substance of why they're meeting tonight. He asked if there were any questions. (Mr. Donaldson arrived during the definitions and thanked Mr. Garrett for reading).

Mr. Ford said the changes were mandated by the DEP. Mr. Tadema-Wielandt asked what the consequence of rejection would be. Mr. Jordan said it's not in our code, so it puts more of a burden on the town to search out the state regulation. Mr. Donaldson said it's probably more restrictive than the local ordinance. There was a brief discussion between Mr. Donaldson and Mr. Garrett about whether some sections are more or less restrictive than the state. Mr. Tadema-Wielandt said that might be a question that comes up. Mr. Donaldson said Mr. Jordan's answer was pretty good, and applicants will know what set of rules we're playing with.

Mr. Branch asked for more questions. There were none.

Mr. Garrett moved to close the public hearing, Mr. Branch 2nd. There was no opposition, and the hearing closed at approximately 6:47 PM.

Respectfully submitted,

Stuart Marckoon, Deputy Town Clerk